

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 7 STATE PERSONNEL ADMINISTRATION
PART 4 PAY

1.7.4.1 ISSUING AGENCY: State Personnel Board.
[1.7.4.1 NMAC - Rp, 1.7.4.1 NMAC, 8/1/2021]

1.7.4.2 SCOPE: All state agencies in the classified service.
[1.7.4.2 NMAC - Rp, 1.7.4.2 NMAC, 8/1/2021]

1.7.4.3 STATUTORY AUTHORITY: NMSA 1978, Section 10-7-12 NMSA 1978, Sections 10-9-13(B); and 29 U.S.C. Sections 201 to 262.
[1.7.4.3 NMAC - Rp, 1.7.4.3 NMAC, 8/1/2021]

1.7.4.4 DURATION: Permanent.
[1.7.4.4 NMAC - Rp, 1.7.4.4 NMAC, 8/1/2021]

1.7.4.5 EFFECTIVE DATE: August 1, 2021 unless a later date is cited at the end of a section.
[1.7.4.5 NMAC - Rp, 1.7.4.5 NMAC, 8/1/2021]

1.7.4.6 OBJECTIVE: The objective of Part 4 of Chapter 7 is: to provide a uniform system of pay administration for employees that is externally competitive and internally equitable.
[1.7.4.6 NMAC - Rp, 1.7.4.6 NMAC, 8/1/2021]

1.7.4.7 DEFINITIONS:

A. “Alternative pay band” means a pay band based on current market rate for benchmark jobs in the relevant labor market(s).

B. “Alternative work schedule” means a schedule that is requested by an employee and approved by the agency that deviates from the normal work schedule.

C. “Appropriate placement” means those elements to be considered in determining pay upon hire, promotion, transfer or reduction including the employee’s education, experience, training, certification, licensure, internal pay equity, budgetary availability and, when known and applicable, employee performance.

D. “Base pay” or “base salary” means the rate of compensation paid to an employee exclusive of benefits, temporary increases (Subsection K and L of 1.7.4.12 NMAC), pay differentials (Subsection M of 1.7.4.12 NMAC, 1.7.4.13 NMAC), overtime payments (1.7.4.14 NMAC), call-back pay (1.7.4.15 NMAC), on-call pay (1.7.4.16 NMAC), holiday pay (Subsection C of 1.7.4.17 NMAC), and incentive awards (1.7.4.18 NMAC).

E. “Comparison market” means an identified group of employers for which similar jobs can be recognized for the primary purpose of obtaining information that can be used to assess how competitive employee pay levels are relative to the market.

F. “Contributor proficiency zones” means subdivisions of the pay band that designate the employee’s contribution in their job role. These proficiency zones are characterized as associate, independent and principal zones.

G. “In pay band adjustment” means movement within a pay band for demonstrated performance, skill or competency development, or internal alignment, which allows agency management to provide base salary growth within a pay band.

H. “Internal alignment” means an adjustment that addresses pay issues involving the proximity of one employee’s salary to the salaries of others in the same agency and classification who have comparable levels of training, education and experience, duties and responsibilities, performance, knowledge, skills, abilities, and competencies, and who are appropriately placed.

I. “Normal work schedule” means a schedule established by the agency, defining a start and end time for the employee.

J. “Pay plan” means a document developed by the director and approved annually by the board, that describes the board’s compensation philosophy and it is the foundation for ensuring consistent application of the philosophy.

K. “Shift work schedule” means a normal work schedule assigned to an employee as part of a rotating group of individuals that must continuously maintain a twenty-four hour operation.

L. “**Total compensation**” means all forms of cash compensation and the dollar value of the employer-sponsored benefit.
[1.7.4.7 NMAC - Rp, 1.7.4.7 NMAC, 8/1/2021]

1.7.4.8 PAY PLAN:

A. The director, pursuant to direction from the board, shall establish, maintain and, in conjunction with state agencies, administer a pay plan for all positions throughout the classified service, which shall include the pertinent factors that should be considered by managers for determining and justifying appropriate placement within a pay band.

B. Agencies shall develop and utilize a compensation policy that is in compliance with 1.7.4 NMAC. Agency compensation policies will be filed with, reviewed by, and approved by the director. Subsequent revisions to the compensation policy shall be filed with, reviewed by, and approved by the director prior to adoption of the policy.

C. The board shall adopt a recognized method of job evaluation to uniformly and consistently establish the value of each level.

D. The director shall conduct an annual compensation survey that includes total compensation. The comparison market shall be comprised of private and public entities within the state of New Mexico, regional state government employers, and central, western and southwestern state government employers. The board or director may authorize additional comparison markets when deemed necessary and appropriate.

E. Prior to the end of each calendar year, the director shall submit a compensation report that includes a summary of the status of the classified pay system and the results of the annual compensation survey that includes total compensation to the board. The board shall review, adopt and submit this report to the governor and the legislative finance committee.

[1.7.4.8 NMAC - Rp, 1.7.4.8 NMAC, 8/1/2021]

1.7.4.9 ASSIGNMENT OF PAY BANDS: The director shall appoint a job evaluation committee consisting of 10 members. The director will provide training in the job evaluation and measurement process. The committee shall apply the job evaluation and measurement process to all newly created or revised classifications.

A. The committee shall submit the results of the job evaluation(s) as recommendations to the director. The director shall review the results and convert the total job evaluation points to the appropriate pay band. The director shall submit the pay band assignment results to the board for adoption.

B. Agencies may request a re-evaluation of a classification which, based upon their analysis, is inappropriately valued. Re-evaluations may be conducted no more than once every 24 months unless otherwise approved by the director.

[1.7.4.9 NMAC - Rp, 1.7.4.9 NMAC, 8/1/2021]

1.7.4.10 ASSIGNMENT OF ALTERNATIVE PAY BANDS:

A. The director shall recommend to the board the assignment of an alternative pay band(s).

B. Alternative pay band(s) will be utilized to address compensation related to recruitment and retention issues.

C. Requests for alternative pay bands must meet criteria established in the pay plan.

D. The board shall assign alternative pay bands based on the director’s report on comparison market surveys, or additional market survey information, to address critical recruitment/retention issues.

E. The assignments to alternative pay bands shall be reviewed annually to determine their appropriateness. The director shall recommend to the board the continuation or removal of the alternative pay band assignments. The salary of affected employees shall be governed by Subsection H of 1.7.4.12 NMAC.

[1.7.4.10 NMAC - Rp, 1.7.4.10 NMAC, 8/1/2021]

1.7.4.11 SALARY SCHEDULES:

A. Based on the pay plan, the director shall develop and maintain salary schedules for the classified service that shall consist of pay bands.

B. No employee in the classified service shall be paid a salary less than the minimum nor greater than the maximum of their designated pay band unless otherwise authorized by the director, or provided for in these rules, or the employee has been transferred into the classified service by statute, executive order, or order of a court of competent jurisdiction.

C. The director, pursuant to the direction of the board, shall adjust the salary schedules to address the external competitiveness of the service or other concerns. Employees whose pay band is adjusted upward or downward shall retain their current salary. Such salary schedule adjustments may result in employees temporarily falling below the minimum or above the maximum of their pay band upon implementation.

(1) The pay of employees who would be above the maximum of the pay band shall not be reduced.

(2) The pay of employees who fall below the minimum of their pay band shall be raised to the minimum unless the director confirms that the agency does not have budget availability. In these instances, agencies shall raise the pay of employees to the minimum of their pay band within six months of the effective date of the salary schedule adjustment. The director may grant an extension to the six-month time period upon submission and approval of a plan by the agency to raise the pay of employees to the minimum of their pay band.

D. An employee's placement in the pay band will be identified by a compa-ratio value.
[1.7.4.11 NMAC - Rp, 1.7.4.11 NMAC, 8/1/2021]

1.7.4.12 ADMINISTRATION OF THE SALARY SCHEDULES:

A. **Entrance salary:** Upon entrance to a classified position, a newly appointed employee's salary, subject to budget availability, should reflect appropriate placement within the pay band. Any entrance salary in the principal contributor zone must receive approval from the director prior to appointment.

B. Legislative authorized salary increase:

(1) Subject to specific statutory authorization for each state fiscal year, employees may be eligible for a salary increase within their assigned pay band.

(2) Employees with a salary at or above the maximum of the position's pay band shall not be eligible for an increase unless authorized by statute.

C. **Salary upon in pay band adjustment:** Agencies may increase an employee's base salary within the assigned pay band once per fiscal year, subject to director approval, budget availability and reflective of appropriate placement. In pay band adjustments may not result in the employee's base salary exceeding the maximum of the assigned pay band. When reviewing requests for in pay band adjustments the director will take into consideration those instances where the requesting agency has employees with a current rate of pay that falls below the minimum of their pay band.

D. **Salary upon promotion:** Upon promotion, an employee's salary subject to budget availability, should reflect appropriate placement within the pay band. A salary increase of less than five percent (5%) or greater than fifteen percent (15%) shall require approval of the director. A salary increase greater than fifteen percent (15%) to bring an employee's salary to the minimum of the pay band or less than five percent (5%) to prevent an employee's salary from exceeding the maximum of the pay band does not require the approval of the director. The salary of a promoted employee shall be in accordance with Subsection B of 1.7.4.11 NMAC.

E. **Salary upon demotion:** Upon demotion, an employee's salary shall be decreased by no more than fifteen percent (15%), unless a greater decrease is required to bring the salary to the maximum of the new pay band or the decrease is being made in accordance with Paragraph (2) of Subsection F of 1.7.4.12 NMAC.

F. Pay allowance for performing first line supervisor duties:

(1) An agency shall grant a pay allowance to an employee in a non-manager classification who accepts and consistently performs additional duties which are characteristic of a first line supervisor. The amount of the pay allowance shall reflect the supervisory responsibilities which transcend the technical responsibilities inherent in the technical occupation group and shall be between zero percent (0%) and twenty percent (20%) above the employee's base pay rate.

(2) A pay allowance granted under this Subsection F shall be considered a part of an employee's base salary while it is in place. When the supervisor duties are no longer being performed, the agency shall remove the pay allowance.

(3) Agencies shall require that a form, established by the director, be signed by all employees at the time of acceptance of a pay allowance evidencing their agreement to the terms and conditions of the pay allowance.

G. Salary upon transfer:

(1) Upon transfer an employee's salary, subject to budget availability and reflective of appropriate placement, may be increased up to ten percent. The director may approve a salary increase greater than ten percent (10%) due to special circumstances that are justified in writing.

(2) Employees shall be compensated, in accordance with agency policy, for all accumulated leave, other than sick, annual, or personal leave, prior to inter-agency transfer.

H. Salary upon pay band change: When a change of pay band is authorized in accordance with the provisions of 1.7.4.9 NMAC, 1.7.4.10 NMAC, or 1.7.4.11 NMAC the salaries of affected employees shall be determined in accordance with Subsection C of 1.7.4.11 NMAC. Employees whose pay band is adjusted upward or downward shall retain their current salary in the new pay band. Employees' salaries may be addressed through in pay band adjustment unless otherwise allowed by statute.

I. Salary upon reduction: The salary of employees who take a reduction may be reduced by up to fifteen percent (15%) unless the reduction is made in accordance with Paragraph (2) of Subsection F of 1.7.4.12 NMAC. An employee's salary should reflect appropriate placement within the pay band. The director may approve a salary reduction greater than fifteen percent (15%) due to special circumstances that are justified in writing.

J. Salary upon return to work or reemployment: The salary of former employees who are returned to work or re-employed in accordance with the provisions of 1.7.10.10 NMAC, 1.7.10.11 NMAC, 1.7.10.12 NMAC, or 1.7.10.14 NMAC shall not exceed the hourly rate of their base salary at the time of separation, unless a higher salary is necessary to bring the employee to the minimum of the pay band.

K. Salary upon temporary promotion: Pay for a temporary promotion under Subsection F of 1.7.5.12 NMAC, will be administered in accordance with Subsection D of 1.7.4.12 NMAC, except that payment of a temporary promotion increase shall be separate from the employee's base salary. The agency shall discontinue the temporary promotion increase when the temporary conditions cease to exist or at the end of the 12-month period, whichever occurs first.

L. Temporary salary increase: An agency may, with the approval of the director, grant a temporary salary increase of up to fifteen (15%), for a period not to exceed 1 year, from the effective date of the salary increase, for temporarily accepting and consistently performing additional duties which are characteristic of a job requiring greater responsibility/accountability or a higher valued job. The director may approve temporary salary increases above the maximum of the employee's current pay band. Payment of a temporary salary increase shall be separate from the employee's base salary. The agency shall discontinue the temporary salary increase when the temporary conditions cease to exist or at the end of the 12-month period, whichever occurs first.

M. Salary adjustment to minimum: An employee whose salary falls below the minimum of the pay band will be adjusted in accordance with Paragraph (2) of Subsection C of 1.7.4.11 NMAC.
[1.7.4.12 NMAC - Rp, 1.7.4.12 NMAC, 8/1/2021]

1.7.4.13 PAY DIFFERENTIALS:

A. Temporary recruitment differential: The director may authorize, in writing, a pay differential of up to fifteen percent (15%) of an employee's base pay to an employee who fills a position which has been documented as critical to the effective operation of the agency and has been demonstrated and documented to be a severe recruitment problem for the agency.

(1) A temporary recruitment differential authorized under this provision shall be tied to the position and may not transfer with the employee should the employee leave that position. Payment of this differential shall be separate from the employee's base salary. Agencies shall demonstrate to the office, at least biennially, the circumstances which justified the differential to determine the necessity for its continuance.

(2) A temporary recruitment differential of more than fifteen percent (15%) of an employee's base pay or that results in an employee's pay exceeding the maximum of the pay band may be authorized by the director.

B. Temporary retention differential: The director may authorize, in writing, a pay differential of up to fifteen percent (15%) of an employee's base pay to an employee in a position which the agency has documented and has been designated as critical to the effective operation of the agency and the employee's departure would disrupt the agency's ability to fulfill its mission.

(1) A temporary retention differential authorized under this provision may be approved up to one year. The agency shall demonstrate to the office, at least annually, the circumstances which justify the continuance of the differential. The agency must provide a detailed plan that outlines how they intend to resolve the problems associated with the retention difficulties. Payment of this differential shall be separate from the employee's base salary and may not transfer with the employee should the employee leave that position.

(2) A temporary retention differential of more than fifteen percent (15%) of an employee's base pay or that results in an employee's pay exceeding the maximum of the pay band may be authorized if approved by the director.

C. The temporary recruitment differential and the temporary retention differential are separate and distinct pay differentials that are administered separately.

D. Pay for dusk to dawn work: Employees shall be paid, in addition to their hourly pay rate, no less than \$0.60 per hour for each hour of regularly scheduled work between 6:00 p.m. and 7:00 a.m.

(1) Agencies shall notify the director of any change to the dusk to dawn differential or hours of eligibility.

(2) Agencies may choose not to pay the dusk to dawn differential to an employee whose alternative work schedule request results in the employee working any hours between 6:00 p.m. and 7:00 a.m. [1.7.4.13 NMAC - Rp, 1.7.4.13 NMAC, 8/1/2021]

1.7.4.14 OVERTIME:

A. Agencies are responsible for the evaluation of each employee's position and duties in order to determine their overtime status as set forth under the Fair Labor Standards Act.

B. Agencies shall provide documentation to employees as to the determination of their overtime status.

C. Employees have the right to appeal the determination of their overtime status according to the provisions of 1.7.6.13 NMAC. Agencies shall notify employees in writing of their appeal decision within 30 calendar days. The employee may file an appeal of the agency's decision to the director within 30 calendar days of the agencies decision. Agencies shall notify employees that their appeal to the director must be in writing and must include the reason(s) why the employee believes he or she is improperly identified for overtime coverage. The appeal must include documentation describing the work currently being performed by the employee and any other relevant information. All information contained in the appeal shall be verified by the employing agency.

D. Agencies shall maintain a record on each employee containing information required by the provisions of the Fair Labor Standards Act.

E. Workweek is a period of time which begins at 12:01 a.m. Saturday, and ends at 12:00 midnight, the following Friday. The director may approve an alternative workweek.

F. Time worked in excess of 40 hours during the designated workweek shall be compensated in accordance with the provision of the Fair Labor Standards Act [29 U.S.C. Sections 201 to 262] for Fair Labor Standards Act covered, non-exempt employees.

G. Agencies shall not change the workweek to avoid payment of overtime. A change to the scheduled work hours within the workweek shall not be considered a change to the workweek.

H. Agencies shall determine the need for employees to work overtime, and be responsible for authorizing overtime work.

I. Paid holiday leave in accordance with the provisions of Subsection A of 1.7.4.17 NMAC, annual leave taken in accordance with the provisions of Subsection F of 1.7.7.8 NMAC, and administrative leave for voting taken in accordance with the provisions of Subsection C of 1.7.7.14 NMAC shall also count as time worked in the consideration of overtime for Fair Labor Standards Act covered, non-exempt employees.

J. Agencies shall pay Fair Labor Standards Act covered, non-exempt employees for overtime worked unless the employee, in advance, agrees in writing to compensatory time off. Employees may accrue a maximum of 240 hours of compensatory time, unless otherwise authorized by statute and shall be paid for accrued compensatory time upon separation.

K. Employees not covered or exempt from the overtime provisions of the Fair Labor Standards Act may be compensated for overtime if an agency's policy permits.

L. Any additional regular hours worked shall not be substituted for approved paid leave time during the same week additional regular hours were worked.

[1.7.4.14 NMAC - Rp, 1.7.4.14 NMAC, 8/1/2021]

1.7.4.15 CALL-BACK PAY:

A. Employees who are directed to return to work after completing their normal or alternative work schedule and before their next normal or alternative work schedule:

(1) shall be paid in accordance with the provisions of 1.7.4.14 NMAC, if the time worked results in overtime; or:

(2) shall be paid their hourly rate, if the time worked does not result in overtime.

B. Agencies may establish a minimum number of hours to be paid when employees are called back in accordance with their agency policy.

[1.7.4.15 NMAC - Rp, 1.7.4.15 NMAC, 8/1/2021]

1.7.4.16 ON-CALL PAY:

A. In accordance with the provisions of the Fair Labor Standards Act, agencies shall develop a policy to compensate employees directed to remain on-call after their normal or alternative work schedule.

B. Agencies shall file their on-call compensation policy with the office. Subsequent revisions to the on-call policy shall be filed with the office prior to implementation.

[1.7.4.16 NMAC - Rp, 1.7.4.16 NMAC, 8/1/2021]

1.7.4.17 HOLIDAY PAY:

A. When an authorized holiday falls on an employee's regularly scheduled workday and the employee is not required to work, the employee shall be paid at their hourly rate of pay for the number of hours they would have normally worked.

B. Full-time employees, whose normal work schedule does not include the day observed as a holiday, shall be entitled to time off equal to the employee's normal workday.

C. Employees required to work on the day a holiday is observed, shall be compensated at two and one-half times their hourly rate of pay for all hours actually worked on the holiday. Such compensation shall be in the form of straight time cash payment for all hours actually worked and additional premium compensation, at the agency's discretion, of either compensatory time off or cash payment at one and one-half times the usual hourly rate of pay for all hours actually worked.

D. Part-time employees whose normal work schedule does not include the day a holiday is observed shall not be compensated for the holiday.

E. Employees who have been charged absence without leave on the workday prior to or directly following a holiday shall not be paid for the holiday.

[1.7.4.17 NMAC - Rp, 1.7.4.17 NMAC, 8/1/2021]

1.7.4.18 GOVERNMENT COST SAVINGS INCENTIVE AWARDS: Agencies may provide cash awards to employees with the approval of the board in accordance with the provisions of NMSA 1978, Section 10-7-12. The director and the secretary of the department of finance and administration shall jointly issue and administer guidelines for submitting proposed awards to the board.

[1.7.4.18 NMAC - Rp, 1.7.4.18 NMAC, 8/1/2021]

1.7.4.19 [RESERVED]

[1.7.4.19 NMAC - Rp, 1.7.4.19 NMAC, 8/1/2021]

HISTORY OF 1.7.4 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

SPB Rule 4, Applications and Tests, filed 5/22/1980;

SPB Rule 4, Applications and Tests, filed 6/3/1981;

SPB Rule 4, Applications and Tests, filed 9/2/1981;

SPB Rule 4, Applications and Tests, filed 7/1/1982

SPB Rule 4, Applications and Tests, filed 10/21/1982;

SPB Rule 4, Applications and Tests, filed 8/15/1985;

SPB Rule 4, Applications and Tests, filed 10/17/1986;

SPB Rule 4, Applications and Tests, filed 7/30/1987;

SPB-8, Pay, filed 4/4/1990;

SPB-8, Pay, filed 9/4/1990;

SPB-8, Pay, filed 10/17/1990;

SPB-8, Pay, filed 10/19/1990;

SPB-8, Pay, filed 12/13/1990;

SPB-8, Pay, filed 7/15/1991;

SPB-8, Pay, filed 10/11/1991;

SPB-8, Pay, filed 12/24/1991;

SPB-8, Pay, filed 6/9/1992;

SPB-8, Pay, filed 9/10/1992;

SPB 6, Pay, filed 12/15/1992;

SPB 6, Pay, filed 2/10/1994;

SPB 6, Pay, filed 12/1/1994;
SPB 6, Pay, filed 9/1/1995.

History of Repealed Material:

1 NMAC 7.4, Pay (filed 6/13/1997) repealed 7/7/2001;
1.7.4 NMAC, Pay (filed 6/14/2001) repealed 11/14/2002.

Other History:

SPB 6, Pay (filed 9/1/1995) was renumbered, reformatted and replaced by 1 NMAC 7.5, Pay, effective 1/31/1996.
1 NMAC 7.5, Pay (filed 1/12/1996) was replaced by 1 NMAC 7.5, Pay, effective 5/15/1996.
1 NMAC 7.5, Pay (filed 5/2/1996) was renumbered, amended and replaced by 1 NMAC 7.4, Pay, effective 07/01/1997.
1 NMAC 7.4, Pay (filed 6/13/1997) was renumbered, reformatted and replaced by 1.7.4 NMAC, Pay, effective 7/7/2001.
1.7.4 NMAC, Pay (filed 6/14/2001) was replaced by 1.7.4 NMAC, Pay, effective 11/14/2002.
1.7.4 NMAC, Pay (filed 11/1/2002) was replaced by 1.7.4 NMAC, Pay, effective 8/1/2021.